IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

And
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 32995 of 1998

Between:

M/s Vijaya Lakshmi Agencies Sattenapalli, rep.by its Proprietor T.V.S.Maheswara Rao S/o.Pulla Rao, age 34 yrs

..... PETITIONER

AND

The Commercial Tax Officer, Sattenapalli, Guntur Dist

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the entire records relating to the assessments for 1991-92 and 1992-93 and issue an appropriate writ order or direction declaring the impugned order purported to have been made on 08/6/98 in G.I.No.155/91-92 & 92-93 (APGST & CST) issued by the respondent as communicated to the petitioner on 16/07/98 is illegal, arbitrary, without jurisdiction and without authority of law contravening with judgments of this Hon'ble Court in 25 APSTJ P.49, 22 APSTJ P.138 as also the Judgment of the Hon'ble Supreme Court in 93 STC P.406 and consequently direct the respondent to refund the amount lying with the respondents since 17/08/98 with interest at the rate of 12% there from.

Counsel for the Petitioner: MR.M.V.K.MURTY

Counsel for the Respondent: SPL SC FOR COMMERCIALTAXES

The Court made the following:

ORAL ORDER: (Per: The Hon'ble Mr. Justice Bilal Nazki)

Nobody appears for the petitioner. Case has been adjourned from 08-11-2004 to this day. We have gone through the record. Remand orders have been challenged in the writ petition. Although there is efficacious remedy available, the appeal has not been filed on the ground that the order of assessment authority is passed remanding appeal and the appeal is termed as an 'empty formality'. If such a plea is accepted, then this court will have to entertain writ petitions in all assessments and the whole machinery provided under the Sales Tax Act will be rendered useless. The writ petition is, accordingly, dismissed. No costs.

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BILAL NAZKI, J

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S. ANANDA REDDY, J

Dt. 10-11-2004

Pvks/*

To

1.The Commercial Tax Officer, Sattenapalli, Guntur Dist

2.2CCs to the Special SC for Commercial Taxes, A.P. High Court Buildigns, Hyderabad (OUT).

3.2CD copies

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